STATE OF TENNESSEE

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Reply to:
Consumer Advocate and Protection Division
Post Office Box 20207
Nashville, TN 37202

August 18, 2003

Honorable Deborah Taylor Tate
Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

RE: APPLICATION OF NASHVILLE GAS COMPANY, A DIVISION OF PIEDMONT NATURAL GAS COMPANY, INC. FOR AN ADJUSTMENT OF ITS RATES AND CHARGES, FOR APPROVAL OF REVISED TARIFFS AND APPROVAL OF REVISED SERVICE REGULATIONS, Docket 03-00313

Dear Chairman Tate:

Enclosed is an original and thirteen copies of the Consumer Advocate's Direct Testimony of Mark H. Crocker. Kindly file same in this docket. Copies are being sent to all parties of record. If you have any questions, kindly contact me at (615) 741-8700. Thank you.

Sincerely,

Timothy C. Phillips
Assistant Attorney General

Enclosures
cc: All Parties of Record

#67856

Before the

TENNESSEE REGULATORY AUTHORITY

**IN RE: APPLICATION OF NASHVILLE GAS COMPANY,
A DIVISION OF PIEDMONT NATURAL GAS COMPANY, INC.,
FOR AN ADJUSTMENT OF ITS RATES AND CHARGES, THE APPROVAL OF
REVISED TARIFFS AND THE APPROVAL OF REVISED SERVICE REGULATIONS
DOCKET NO. 03-00313**

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**DIRECT TESTIMONY
OF
MARK H. CROCKER, CPA**

****

August 1, 2003

Q-1 Please state your name for the record.

A-1 My name is Mark H. Crocker ("Mark").

Q-2 By whom are you employed and what is your position?

A-2 I am employed by the Consumer Advocate and Protection Division ("CAPD") in the Office of the Attorney General of the State of Tennessee as a Regulatory Analyst.

Q-3 What is your employment background?

A-3 I have been employed in the CAPD since July of 2001. Prior to my employment with the Attorney General's Office, I was employed in private practice for approximately two and one-half years; as the Chief Financial Officer of a privately owned travel company for approximately one year; as the Vice-President of Finance and Chief Operating Officer of the Cumberland Science Museum for five years; as an Internal Revenue Agent with the Internal Revenue Service for five years; and as an auditor for the Division of Municipal Audit of the State Comptroller's Office for a little over one year. I have also served as an adjunct professor of accounting at Middle Tennessee State University for approximately ten years; at Tennessee State University for two semesters; and at Nashville State Technical Institute for one semester.

Q-4 What is your educational background and what degrees do you hold?

A-4 I have a Bachelor of Arts degree from Middle Tennessee State University with a major in American History with minors in French and Economics. I have a Master of Arts degree from Middle Tennessee State University in American History with an emphasis in Historic Preservation. I completed the requirements to add accounting as a second undergraduate major in August of 1986. I am a Certified Public Accountant in the State of Tennessee, a member of the American Institute of Certified Public Accountants

("AICPA"), and a member of the Tennessee Society of Certified Public Accountants ("TSCPA").

Q-5 What is the purpose of your testimony before the Tennessee Regulatory Authority ("TRA")?

A-5 The purpose of my testimony is to explain the Consumer Advocate's proposed adjustments to the Company's expenses for liability insurance, odorant, excise tax, pension expense and outside services.

Q-6 Would you please explain the adjustment to liability insurance?

A-6 The Company is proposing an increase of approximately $77,990 (workpapers AA-1/2) in Officers' and Directors' Liability Insurance. Their projected expense is based on estimates received from insurance brokers. The increase is due to the climate surrounding corporate cultures at this point in time, and the concept that the officers and directors of a company bear a greater responsibility to the shareholder and consumer. The public holds officers and directors accountable for the financial prosperity of their investments, and are becoming more litigious which results in higher insurance premiums. The Consumer Advocate does not oppose this increase.

Q-7 Would you please explain the adjustment to odorant expense?

A-7 In preparing the case for presentation to the Tennessee Regulatory Authority, the Company neglected to include proper expense for odorant. This is an additive to the gas that makes it detectable by smell, thus providing a safety measure in the event of leakage. The Consumer Advocate is proposing an additional expense adjustment of $43,737 based on an average of the prior four years expense for that line item (workpaper A-1).

Q-8 Would you please explain the adjustment to the excise tax expense?

A-8 The Company prepared its request for an increase in rates based on an excise tax rate of 6.0% in Tennessee. The State Legislature amended Tennessee Code Annotated, section 67-4-2007(a) to make the excise tax rate 6.5% as of July 15, 2002 (workpaper B-1). The Consumer Advocate has used the corrected rate in our exhibits and estimates that the increase in expense for Nashville Gas is approximately $57,000. This increase in expense should be allowed to the Company as it is statutory.

Q-9 What is the explanation for the adjustment to pension expense?

A-9 In computing the amount of pension expense, the Company used an incorrect number for annual amortization of the deferred pension expense. In the Rate Case filing, the Company originally used $436,723 (workpaper PEN-2). However, more current estimates of required pension funding results in revised estimate of amortization costs of $350,467 (workpaper PEN-3). The Consumer Advocate used the more current estimate submitted by the Company to compute an adjustment to pension expense of $86,256 (workpaper PEN-1).

Q-10 Please explain the expense adjustment to outside services.

A-10 Mr. John H. Maxheim retired as a member of the Board of Directors of Piedmont Natural Gas Company, Inc. as of February 28, 2003. He had been employed by the Company after his retirement as Chief Executive Officer to provide advice and assistance to the CEO and the Board on a variety of matters at an annual compensation of $200,000. His contract with the Company expired on February 28, 2003, but a new contract became effective on March 1, 2003, with Mr. Ware Schiefer (also a prior CEO of the Company) with the same compensation and the same duties. His contract expires on February 28, 2004, and may be extended under the terms of the agreement. The Consumer Advocate proposes an adjustment of ($48,328) (workpapers U-1/U-3) to disallow the expenses for this consulting fee for rate-making purposes. It appears that the officers of the Company are well compensated for their duties, and the need for an "outside" advisor should be minimal. It should not be the responsibility of the rate-payers of Tennessee to continue to compensate retired Chief Executives under what appears to be a "Golden Parachute" arrangement. As noted in the adjustment for the increase in liability insurance premiums, injudicious use of a company's funds has been the subject of increasing litigation. Paying a "retainer" to previous CEO's for ambiguous duties may have the appearance of impropriety. Therefore, an adjustment is proposed to reduce expenses accordingly.

Q-11 Are there any additional observations that you would make at this time?

A-11 Yes, there is one additional item that I would like to address. The inspectors from the Tennessee Regulatory Authority have recommended that the LNG tank for Nashville Gas be painted. This is not scheduled to be done until next summer, and the cost for actually painting the tank are unknown at this time, and therefore cannot be included as a factor in this case. However, the Consumer Advocate proposes that Nashville Gas Company be allowed to capitalize the costs of painting the tank when they are incurred and then amortized over a ten-year period.

In reviewing the other expenses included in the Company's proposal, no material errors were discovered.

Q-12 Does this conclude your testimony?

A-12 Yes, it does.

67453

Before the
TENNESSEE REGULATORY AUTHORITY

IN RE: APPLICATION OF NASHVILLE GAS COMPANY, A DIVISION OF PIEDMONT NATURAL GAS COMPANY, INC., FOR AN ADJUSTMENT OF ITS RATES AND CHARGES, THE APPROVAL OF REVISED TARIFFS AND THE APPROVAL OF REVISED SERVICE REGULATIONS

DOCKET NO. 03-00313

AFFIDAVIT

I, Mark H. Crocker, CPA, for the Consumer Advocate and Protection Division of the Attorney General's Office, hereby certify that the attached Direct Testimony represents my opinion in the above-referenced case and the opinion of the Consumer Advocate and Protection Division.

Mark H. Crocker

MARK H. CROCKER

Sworn to and subscribed before me
this 18 day of August, 2003.

NOTARY PUBLIC

My commission expires: Sept 24, 2005

67859

Nashville Gas Company
Docket Number 03-00313
Directors' and Officers' Liability Insurance

AA-1
MHC
31 July 2003

	Non-Utility	Utility	Workpaper Reference
Expense used by Company in preparation of Rate Case:	100,000		Tab 25; page 50 of 185
		300,000	Tab 25; page 51 of 185
Amount allocated to Tennessee:		X 23.96%	
Amount used in Rate Case:		71,880	

Most recent quote:
$834,000

The Company has allocated 25% to Non-Utility and 75% to Utility. Therefore, using the new quote, the numbers that should have been used for preparation of the Rate Case are:

	Non-Utility	Utility	
	834,000	834,000	(from AA-2)
	X 25%	X 75%	
	208,500	625,500	
Amount allocated to Tennessee:		X 23.96%	
Proper amount to use in Rate Case:		149,870	
Increase in Liability Insurance:		149,870	
		(71,880)	
Increase accepted by Consumer Advocate:		77,990	

AA-2

PIEDMONT NATURAL GAS

Directors & Officers Liability
Premium Projections

Limits	Deductible				
	$250,000	**$500,000**	**$1,000,000**	**$2,000,000**	**$2,500,000**
$10,000,000	N/A	$325,000	$300,000	$285,000	$275,000
$15,000,000	N/A	$450,000	$435,000	$415,000	$400,000
$20,000,000	N/A	$600,000	$555,000	$530,000	$510,000
$25,000,000	N/A	$715,000	$670,000	$645,000	$625,000
$30,000,000	N/A	$834,000	$771,000	$746,000	$726,000
$40,000,000	N/A	$1,034,000	$970,000	$946,000	$926,000
$50,000,000	N/A	$1,234,000	$1,171,000	$1,146,000	$1,126,000

Employment Practices Liability
Premium Projections

Limits	Deductible			
	$100,000	**$250,000**	**$500,000**	**$1,000,000**
$10,000,000	N/A	$150,000	$142,000	$135,000
$20,000,000	N/A	$227,000	$262,000	$250,000
$30,000,000	N/A	$387,000	$367,000	$355,000
$35,000,000	N/A	$447,000	$427,000	$415,000

Note: These premiums are projections only based on "best" case scenario and are well below the current averages for a public company with a $1 Billion market capitalization. Additional factors such as industry group, pending merger, EPL claims history, corporate governance issues will also have a major impact on the underwriters perception of the risk.

Nashville Gas Company
Docket No. 03-00313
Odorant Expense

A-1
MHC
30 July 2003

For the 12 Months Ended:

December 2002	58,628
December 2001	35,240
December 2000	36,013
December 1999	45,065
Total:	174,946
Divided by:	4
Average:	43,737

The amount allowed for this expense will be the average as computed above, since the Company has not provided any additional information on this line item.

B-1

WEST'S TENNESSEE CODE ANNOTATED
TITLE 67. TAXES AND LICENSES
CHAPTER 4. PRIVILEGE AND EXCISE TAXES
PART 20--EXCISE TAX LAW
§ 67-4-2007. Taxable persons and entities

(a) All persons, except those having not-for-profit status, doing business in Tennessee, shall, without exception other than as provided herein, pay to the commissioner, annually, an excise tax, in addition to all other taxes, equal to six and one-half percent (6.5%) of the net earnings for the next preceding fiscal year for business done in this state during that fiscal year. Notwithstanding the fact that a person is not-for-profit, such person shall be subject to excise tax on all of its Tennessee net earnings to the extent such earnings constitute unrelated business taxable income as defined in § 512 of the Internal Revenue Code or are otherwise subject to income taxes under Subtitle A of such code. Notwithstanding the fact that a person is otherwise exempted from the excise tax, such person shall be subject to excise tax on all of its Tennessee net earnings that are attributable to any activities unrelated to and outside the scope of the activities that give it an exemption status.

(b) Every such person, now or hereafter doing business within this state, shall, as a recompense for the protection of its local activities and as compensation for the benefits it receives from doing business in Tennessee, pay the tax imposed by this part. A person doing business in Tennessee without incorporating, domesticating, qualifying or otherwise registering in Tennessee, or doing business in Tennessee while its charter, domestication, qualification or other registration is forfeited, revoked or suspended, is not relieved from filing a return and paying the excise tax levied by this part for each tax year that such person does business in Tennessee.

(c) The tax imposed by this part shall apply to taxpayers whose business is being conducted by a receivership or trusteeship appointed by any court of competent jurisdiction, and shall continue to accrue until such time as the taxpayer has been actually and legally dissolved or withdrawn from this state.

(d) For purposes of the excise tax levied by this part, a business entity shall be classified as a corporation, partnership, or other type business entity, consistent with the way the entity is classified for federal income tax purposes, and subject to tax in accordance with this part. Notwithstanding any provision of law to the contrary, entities that are disregarded for federal income tax purposes, except for limited liability companies whose single member is a corporation, shall not be disregarded for Tennessee excise tax purposes.

(e) Except for unitary groups of financial institutions and business entities that have been required or permitted to file excise tax returns on a combined, consolidated or separate accounting basis under § 67-4-2014, each taxpayer shall be considered a separate and single business entity for Tennessee excise tax purposes and shall file its Tennessee excise tax return on a separate entity basis reflecting only its own business activities even though it may have filed a consolidated federal income tax return with other members of its unitary group. The federal taxable income computed on a separate entity basis excise tax return and subject to adjustments set forth in § 67-4-2006 shall be the same federal taxable income that would have been computed on the taxpayer's federal return if it had been filed on a separate entity basis rather than a consolidated basis.

1999 Pub.Acts, c. 406, § 3, eff. June 17, 1999; 2000 Pub.Acts, c. 982, §§ 15 to 17, eff. June 28, 2000. Amended by 2002 Pub.Acts, c. 856, § 3(c), eff. July 15, 2002.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

1999 Pub.Acts, c. 406, § 19, provides:

Nashville Gas Company
Docket Number 03-00313
Pension Expense

PEN-1
MHC
1 August 2003

Pension Expense Proposed by Company:	660,272	660,272
Agreed Amount from 1999 Settlement:	583,494	
Test Year Amount:		605,224
Difference:	76,778	55,048
Percentage Increase:	13.16%	9.10%

Conclusion:

The increase in Pension Expense appears reasonable in light of the increase allowed in salaries and wages. However, in computing the pension expense for the attrition year, the Company used an incorrect number for Amortization of Deferred Pension Expense.

The adjustment is computed as follows:

Amount of Amortization of Pension Expense used in original filing for computing attrition year amount of Pension Expense:	436,723	PEN-2
Amount of Amortization of Pension Expense that the Company provided to Consumer Advocate as documentation for this expense:	350,467	PEN -3
Amount of Adjustment:	86,256	
Pension Expense Proposed by Company:	660,272	
Less Adjustment:	(86,256)	
Amount allowed in Rate Case as Pension Expense:	574,016	

The Company provided both workpapers (PEN-2 and PEN-3) and orally agreed that the incorrect amount had been used in the computation.

NASHVILLE GAS COMPANY
Employee Benefits
For The Twelve Months Ending October 31,2004

Line No.		Test Year Amount	Adjust.	Attrition Yr. Amt.
		(1)	(2)	(3)
1.	Employee Pension Plan	605,224	Footnote A	660,272
2.	Employee Insurance	2,368,011	Calculated	3,455,804
3.	Savings Plan	589,930	Calculated	595,679
4.	Other	116,384	Calculated	165,777
5.	Total	$3,679,549	$1,197,983	$4,877,532

A/ Test Period Pension Expense	605,224
Less FASB 87 Expense	186,425
Pension Expense less FASB 87	418,799
Less Amortization of Deferred Pension Expense	203,220
Pension Expense less FASB 87 & Amortization	215,579
Growth Factor	1.0370
Attrition Period Amount	223,549
Plus Amortization of Deferred Pension Expense	436,723
Total Pension Expense	660,272

PEN-3

Piedmont Natural Gas Company
Tennessee Operations
Statement 87 Pension Expense
Attrition Period Twelve Months Ending October 31, 2004

Line No.		
1	Unamortized balance in deferred pension expense at October 31, 2003 (a)	$1,752,333
2	Amortization period - years	5
3	Annual amortization (Line 1 / Line 2)	$350,467
4	Amount recorded in the test period (b)	203,220
5	Attrition adjustment (line 3 - Line 4)	$147,247

Note In the order in Docket No. 96-00977, the Authority permitted the Company to establish a deferred asset for the difference between the amount of pension expense allowed in that docket (zero) and the amount of pension expense actually funded. On October 30, 1997, the Company funded the pension trust account in the amount of $4,022,536, of which the Tennessee

(a)	Balance approved for recovery in Docket No. 99-00994		1,016,093
	Less amortization over five years beginning July 2000 ($16,935 monthly)		(677,400)
	Projected unamortized balance at October 31, 2003		338,693
	Additional deferral in fiscal 2003:		
	Estimated contribution	5,900,000	
	TN % (net plant as of December 31, 2002)	23.96%	
	TN portion		1,413,640
	Unamortized balance at October 31, 2003		1,752,333

(b) $16,935 monthly times 12 months.

Mar 31, 2003
BLG
Pension

Nashville Gas Company
Docket Number 03-00313
Outside Services Expense

U-1
MHC
22 July 2003

Outside Services Expense Proposed by Company:	1,850,027	1,850,027
Agreed Amount from 1999 Settlement:	2,822,719	
Test Year Amount:		1,784,070
Difference:	(972,692)	65,957
Percentage Increase:	-34.46%	3.70%

Conclusion:

Payments made to Mr. John H. Maxheim, serving in his capacity as a "consultant" were disallowed for ratemaking purposes. He is engaged to provide "advice and assistance to the Chief Executive Officer and the Board of Directors on a variety of matters." In light of recent events and the public outcry against overcompensation of CEO's, it appears that the payments to Mr. Maxheim may not be prudent, and should definitely not be included in ratemaking.

Amount Allowed:	1,801,699

Nashville Gas Company
Docket Number 03-00313
Outside Services Expense

U-2
MHC
22 July 2003

It appears that Mr. John H. Maxheim received $409,594 (U-3, c and e), for services rendered to the company as a consultant. Having previously served as CEO, his services were undoubtedly of great value to the company, but this amount appears excessive and does not seem prudent on the company's part. Therefore, payments to Mr. Maxheim should be disallowed in computing rates for Tennessee consumers.

Amount paid in Fiscal 2001:	209,441
Months in year:	12
Approximate amount paid per month:	17,453
Months of Fiscal 2001 in Test Year:	2
Amount disallowed from Fiscal 2001:	34,907
Amount paid in Fiscal 2002:	200,153
Months in year:	12
Approximate amount paid per month:	16,679
Months of Fiscal 2002 in Test Year:	10
Amount disallowed from Fiscal 2002:	166,794
Amount disallowed from Fiscal 2001:	34,907
Amount disallowed from Fiscal 2002:	166,794
Total amount disallowed:	201,701
Percentage allocated to Tennessee:	23.96%
Total amount disallowed for ratemaking purposes:	48,328
Amount proposed by company:	1,850,027
Amount disallowed for Tennessee ratemaking:	(48,328)
Total amount allowed:	1,801,699

U-3
MHC
07/22/03

FIRST DISCOVERY REQUEST INTERROGATORIES AND REQUESTS TO PRODUCE TO NASHVILLE GAS COMPANY BY THE CONSUMER ADVOCATE AND PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL DOCKET NO. 03-00313 JULY 8, 2003

DISCOVERY REQUEST NO. 15:

Question Number 27 asked for a listing of outside professional services. Please provide detail for the following:

(a) ACS Outsourcing Solutions - $3,028,757.88 (account 92330, page 1, A/P Transactions, fiscal 2001);

(b) Headstrong - $167,333.40 (account 92330, page 1, A/P Transactions, fiscal 2001);

(c) John H. Maxheim - $209,441.26 (account 92330, page 1, A/P Transactions, fiscal 2001);

(d) Williams, Roberts, Young Inc. - $347,993.39 (account 92330, page 2, A/P Transactions, fiscal 2001);

(e) John H. Maxheim - $200,152.78 (account 92330, page 2, A/P Transactions, fiscal 2002);

(f) Keane, Inc. - $97,050.00 (account 92330, page 2, A/P Transactions, fiscal 2002); and

(g) Sungard Recovery Services, Inc. - $107,572.00 (account 92330, page 2, A/P Transactions, fiscal 2002).

RESPONSE:

a. **ACS Outsourcing Solutions** manages Piedmont's mainframe data center at the ACS Data Center in Charlotte, NC. They manage the mainframe hardware and software, provide technical support for system software maintenance and upgrades, and provide Computer Operations support to run Piedmont's business applications including the Customer Information System and Materials Management System.

b. **Headstrong** is an IT consulting firm that Piedmont engaged to develop an E-Business strategy and to assist with development of business cases for E-Business initiatives.

c. **John H. Maxheim** , who formerly served as Chief Executive Officer of the Company, has an agreement with the Company to provide advice and assistance to the Chief Executive Officer and the Board of Directors on a variety of matters. This agreement was effective March 1, 2000 and ended February 28, 2003. Mr. Maxheim received annual compensation of $195,000, reimbursement of reasonable travel and other out-of-pocket expenses incurred in connection with his services. On his retirement as CEO, Ware F. Schiefer, replaced Mr. Maxheim in the role as advisor to the current CEO and Board of Directors. Mr. Schiefer's annual compensation is $200,000 plus reimbursement of reasonable travel and other out-of-pocket expenses. His contract became effective on March 1, 2003 and expires on February 28, 2004 and may be extended under the terms of the agreement.

d. **Williams, Roberts, Young, Inc**. is an IT consulting firm providing systems development resources. The firm provides resources to backfill vacant positions and supplemental resources to address peak workloads.

e. **John H. Maxheim** –see c. above.

f. **Keane, Inc**. is an IT consulting firm providing project management and systems development resources. The firm provides resources to backfill vacant positions and supplemental resources to address peak workloads.

g. **Sungard Recovery Services** provides disaster recovery hot sites for Piedmont's computing facilities. In the event of a disaster that damages Data Center facilities at the Corporate Office or at the ACS Data Center, Piedmont will restore systems at a Sungard site to maintain business continuity. The contract includes provisions for an annual disaster recovery test for the ACS and Corporate Office Data Center environments.